

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

DANIEL WILSON TESTERMAN,

Petitioner,

v.

**Civil Action No. 1:09cv74
Criminal Action No. 1:05cr4
(Judge Keeley)**

**UNITED STATES OF AMERICA,
Respondent.**

ORDER DIRECTING RESPONDENT TO ANSWER

On June 2, 2009, Petitioner filed a Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody.

Pursuant to Rule 4 of the Rules Governing § 2255 Proceedings in the United States District Courts, the Court has made a preliminary review of the motion and finds that summary dismissal of the same is not warranted.

Accordingly, also pursuant to Rule 4, Respondent is directed to file an answer to Petitioner's § 2255 motion within **thirty (30) days** of entry of this Order. Respondent's answer shall contain those matters specified in Rule 5 of the Rules Governing Section 2255 proceedings.

Petitioner shall have **ten (10) days** after the date the response is filed to file any reply that he may have. Pursuant to Rule 7 of the Federal Rules of Civil Procedure, no other pleading will be accepted without the express order of the court upon a motion duly made.

IT IS SO ORDERED.

The Clerk is directed to transmit copies of this Order to the petitioner and to the United States Attorney for the Northern District of West Virginia both by email and hard copy addressed to Sherry L. Muncy, AUSA, U.S. Attorney's Office - Clarksburg, 320 W. Pike St., Ste. 300, Clarksburg WV 26302 and the United States Probation Office for the Northern District of West Virginia.

DATED: July 27, 2009

/s/ James E. Seibert

JAMES E. SEIBERT
UNITED STATES MAGISTRATE JUDGE